

TITLE 31
LICENSING OF TEMPORARY BUSINESSES

CHAPTERS:

- 31.01: General Provisions
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CHAPTER 31.01
GENERAL PROVISIONS

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31.01.01: SCOPE AND PURPOSE

The purpose of Title 31 is to regulate the licensing of people who do not have a permanent business within the City of Sturgis who wish to do business within the City of Sturgis for a temporary period of time.

31.01.02: DEFINITIONS

A) For the purpose of this Section, a "VENDOR" is any person, firm, corporation, partnership or association not having an operating place of business within the City who, in conjunction with an event of more than four (4) consecutive days within any twelve (12) day time span, engages in temporary or transient business in the City selling goods, wares, merchandise or services, or a permanent business person, firm or corporation which is located within the City limits who, for more than four (4) consecutive days within any twelve (12) day time span, is selling such goods, wares, merchandise or services, away from his/her or its usual operating place of business and who, for the purpose of carrying on such business, hires, leases, or occupies any room, building, structure, or space for the exhibition or sale of such goods, wares, merchandise, or services. The person, firm or corporation so engaged shall not be relieved from the provisions of this Section by reason of association with any local dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant or auctioneer.

B) YEAR: A twelve (12) month period.

C) BUSINESS: The activity of buying & selling.

D) OPERATION: In action, functioning.

E) EVENT: An organized occurrence or happening where the City provides extraordinary services, including but not limited to sanitation services, law enforcement or traffic control.

31.01.03: PENALTY

A violation of this ordinance shall be punishable by a civil penalty of 80% of the cost of a Temporary Vendor License. In addition, a separate administrative fee of \$75.00 will be required to be paid before the Temporary Vendor License can be issued. To avoid additional civil penalty fees for each separate day in violation, the vender shall be required to obtain a valid Temporary Vendors License from the City Finance Office within 12 hours of the issuance of the Citation.

Any temporary vendor found to be operating without a Temporary Vendor License twice within a 24 month period shall be prohibited from obtaining a Temporary Vendor License in the future.

Any person or entity who is required to obtain a Temporary Vendor License and who knowingly allows an unlicensed vendor to conduct or engage in business on property owned by or subject their control shall be prohibited from obtaining a Temporary Vendor License for a period of 400 days after the date of violation.

Any violation of this Title is also punishable as a Class 2 Misdemeanor, punishable by the maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2.

In addition, any violation of the provisions of this Title may result in the revocation and/or suspension of any license issued pursuant to any Section of this Title.

(Revision of 31.01.03 effective 7-21-2010, Ordinance 2010-05)

CHAPTER 31.02

LICENSING AND REGULATION OF PEDDLERS, VENDORS, SOLICITORS, PROFESSIONAL PEOPLE, BUSINESSES AND TRADES

SECTIONS:

31.02.01: Peddling from Vehicles on Streets

31.02.02: Peddling in Parks

31.02.03: Licensing of Transient Professional People and Merchants

31.02.01: PEDDLING FROM VEHICLES ON STREETS

No person shall sell or offer for sale any goods or merchandise from a cart, wagon, automobile, truck or other vehicle in the streets or thoroughfares of the City. This Section does not apply to the delivery of farm or garden products, where the order for same has been placed in advance, nor does it apply to drayage or the delivery of goods sold in the regular course of an established business. Nothing in this paragraph shall prohibit the City from entering into a contract for the sale of ice cream and sundries for immediate conditions agreed to by the Common Council.

31.02.02: PEDDLING IN PARKS

It shall be unlawful for any peddler or other person excepting a person occupying a portion of the park under a valid concession agreement to sell or offer to sell, to any person within any municipal park of the City, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets or any other article of commerce and trade, including goods of his own production or manufacture.

31.02.03: LICENSING OF TRANSIENT PROFESSIONAL PEOPLE AND MERCHANTS

31.02.03.1 Vendor License Required

Any firm, person, or corporation which intends to operate a temporary business within the corporate limits of the City of Sturgis in conjunction with an event of more than four (4) consecutive days within any twelve (12) day time span shall be required to purchase a vendor license for each structure, stand, tent, vehicle, booth, location or place which is used by such merchant for the sale or distribution of goods. The person so engaged shall not be relieved from the provisions of this Section by reason of association with any local operating business, dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, auctioneer or business.

The vendor license must be posted in each individual stand during operation.

31.02.03.2 Application

To obtain a license, a vendor shall file, in the office of the City Finance Officer, a verified application stating his or her name, and residence, description and identification of the place in which he or she proposes to do business, dates of operation, name, address and phone number of property owner where business will take place and, the description of the goods he or she intends to handle.

South Dakota State sales tax number shall be presented at time of

application.

South Dakota State Department of Health license, when applicable, shall be presented at the time of application.

31.02.03.3 Fee and Duration of License

A) A temporary business shall pay a vendor license fee of Six Hundred Dollars (\$600.00) for each twelve (12) consecutive day period, or portion thereof, in any calendar year. This fee shall include all sanitation charges. The Finance Officer shall note on the license the time period for which it is effective.

A business may purchase only two (2) vendor licenses per location per twelve (12) month period.

31.02.03.4 Issuance

On filing the application and payment of the fee described in this section, the Finance Officer shall issue a license to the applicant to do business at a place described in the application and for the time for which the license fee has been paid in advance; provided that any applicant who has paid the license fee before the Rally, and who changes locations before the first official day of the Rally shall be charged an additional license fee of \$100.00. Any moves after the first official day will require the applicant to pay the full fee. This fee shall also apply to organizations which are exempt from the transient merchant's fee but are subject to the sanitation fee imposed by ordinance 11.03.21.

31.02.03.5 Exemptions

A) Sales where the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of charitable, non-profit status as declared by the IRS (i.e. 501(c) (3) documentation) must be presented during application.

B) Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.

C) The sales of fruits, vegetables or farm or garden products in their natural state.

D) The distribution of goods for which there is no charge.

1) All persons, firms or corporations distributing goods or performing a service for which there is no charge, shall be

required to register with the City Finance Officer, their name, address, location of said distribution or service and goods which he/she or it is distributing or service which they are performing.

E) Sales by youth age 15 years and under selling lemonade and like items and incidentals thereto from property from which they reside.

31.02.03.6 Refund Fee For Transient Merchant License

The City of Sturgis is hereby authorized to refund up to 50% of a Transient Merchant License fee, provided that notice is given to the City Finance Office ten (10) days prior to the beginning of that year's annual Sturgis Rally.

(Title 31 adopted effective Nov. 5, 2004 – Ordinance 2004-18 – Ordinance creating Title 31 – Licensing of Temporary Businesses and moving previous Chapter 3.01 – Licensing and regulation of Peddlers, vendors, solicitors, professional people, businesses and trades to Title 31, chapter 31.02)